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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,714

07/28/2003

Larry Blythe Hostetler JR.

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EXAMINER

GAY, SONIA L

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

11/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/628,714	<b>Applicant(s)</b> HOSTETLER, LARRY BLYTHE	
	<b>Examiner</b> SONIA GAY	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-6,8-12,14-18, 20 is/are pending in the application.
- 4a) Of the above claim(s) 4,7,13 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8-12,14-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 8,14,20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to Amendment submitted on 08/20/2009. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Response to Amendment***

1. Applicant's amendment filed on August 20, 2009 has been entered. Claims 1, 3, 5, 6, 8, 12, 14, 18, and 20 have been amended. Claims 4, 7, 13, and 19 have been canceled. Claims 1-3, 5-6, 8-12, 14-18, 20 are still pending in this application, with claims 1, 9, and 15 being independent.

#### ***Allowable Subject Matter***

2. Claims 8, 14, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Claim Rejections - 35 USC § 103***

3. Claims 1-2, 9-10, 12, 15-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ezerzer et al. (US 6,697,858) in view of Galgano, Jr. et al. (US 6,111,947), and further in view of Dickerman et al. (US 6,188,761).

For claim 1, Ezerzer et al. discloses a multi-tenant call management system, said call-management system hosting a plurality of processes including a plurality of tenant application process and a plurality of system processes, a method of configuring and monitoring said

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processes on said system, the method comprising : configuring said system ( column 13 lines 45 – 67; column 15 lines 15 – 42) said configuring including: grouping selected processes into a plurality of tenant groups(column 3 lines 1 – 7, 41 - 67; column 13 line 55 – 58); retrieving said configuration by the call-center system (column 14 lines 41 – 57; column 15 lines 57 – column 16 line 17; column 22 lines 11 - 17); and, starting each of said plurality of processes ( column 14 lines 36 – 40; column 15 lines 55 – 57; column 22 lines 11- 17). Yet, Ezerzer et al. fails to teach wherein said configuring includes a file defining dependencies and priorities between said plurality of processes and a monitoring frequency for each of said plurality of processes.

However, Galgano, Jr. et al. discloses a method for the purpose of routing telephone calls to operator consoles wherein configuration files for the call routing system comprise defined dependencies, priorities, and monitoring frequencies for processes wherein processes are started in correspondence to said dependencies and priorities and monitored based on said monitoring frequencies ( *On startup, the BOSS component reads configuration files to determine which processes it is to start, how to start the processes, the shutdown order of the processes, the heartbeat intervals for the processes,* Abstract; column 3 lines 62 – column 4 line 13).

Moreover, Dickerman et al. discloses a method for the purpose of providing operator and customer services wherein processes are started after reading a single configuration file (column 22 lines 12 - 20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Ezerzer et al. with the teachings of Galgano, Jr. et al. and Dickerman et al. so that the configuration for the call center disclosed above in Ezerzer et al. comprises a file which defines dependencies, priorities and monitoring frequencies for

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processes wherein the processes are started in correspondence to dependence and priorities and monitored based on monitoring frequencies for the purpose of providing a multi-tenant call management system.

For claims 9 and 15, Ezerzer et al discloses a call center system, the system including: a plurality of telephone lines ( column 6 lines 66 – column 7 line 4); a plurality of agent positions ( column 6 lines 66 – column 7 line 4); a call distribution system connecting said plurality of agent positions to said plurality of telephone lines (*ACD Server and Call Center Server*, column 20 lines 43 - 61; column 22 lines 45 – 67); a multi-tenant call- management system connected to the call distribution system, said system hosting a plurality of processes, including a plurality of tenant application processes and a plurality of system processes, including a storage system for storing database files and processes (*network database or table*, column 18 lines 57 - 58; column 25 lines 61 - 67) a computer system having memory for processing said database files and running selected processes stored on said storage system (*host computer*, column 9 lines 1 – 11; column 15 lines 15 - 38); a configuration server for retrieving said configuration and serving configuration data from said configuration to requesting processes ( *Host Server*, column 18 lines 61 - 64; column 22 lines 6 – 19); and a monitor process for starting configured processes ( *Host server*, column 18 lines 61 - 64; column 22 lines 6 – 19).

Yet, Ezerzer et al. fails to teach a configuration server reading a configuration file and a monitor process for starting configured processes according to inter-process dependencies and priorities set forth in the configuration file and for monitoring each of said started processes according to a respective monitor frequency in said configuration file.

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However, Galgano, Jr. et al. discloses a method for the purpose of routing telephone calls to operator consoles wherein a configuration file for the call routing system comprises defined dependencies, priorities, and monitoring frequencies for processes wherein processes are started in correspondence to said dependencies and priorities and monitored based on said monitoring frequencies ( *On startup, the BOSS component reads configuration files to determine which processes it is to start, how to start the processes, the shutdown order of the processes, the heartbeat intervals for the processes*, Abstract; column 3 lines 62 – column 4 line 13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Ezerzer et al. with the teachings of Galgano, Jr. et al. so that the configuration for the call center disclosed above in Ezerzer et al. comprises a file read by a configuration server which defines dependencies, priorities and monitoring frequencies for processes wherein the processes are started in correspondence to inter-process dependencies and priorities and monitored based on monitoring frequencies.

For claims 2, 10, and 16, Ezerzer et al. further discloses starting copies of each of said plurality of processes in a secondary call – management system, wherein said call call-management system is a duplex system (Ezerzer et al., *a fourth aspect is mirroring of some or all processes servers, and function*, can form at least a duplexed call management system, column 2 lines 61- 64; column 25 lines 34 – 47).

For claims 12 and 18, the teachings of Ezerzer et al. and Galgano, Jr. et al. further discloses controlling each of said duplexed call-management systems with a respective HA Server process running on one node of each of said duplexed call-management systems (Ezerzer

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et al., column 2 lines 63 - 67); monitoring processes on each of said nodes under control of said HA Server process with a respective HA Monitor process running on the same node as said monitored processes, said HA Monitor process broadcasting a respective state of each of said monitored processes to all remaining HA Server processes (Ezerzer et al., column 25 lines 45 – 47)( Galgano, *BOSS*, column 3 lines 62 – column 4 line 2); starting and stopping selected process of said monitored processes with a respective HA Spawner process running on the same node as said monitored processes in response to requests from said HA Server process, said HA Monitor process and an HA Master process (Ezerzer et al., *Host Server*, column 22 lines 6 – 19; Galgano , Jr. et al., *BOSS*, column 3 lines 62 – column 4 line 2 ); and watching said HA Server process, said HA Monitor process, and said HA Spawner process with an HA Master process running on the same node as the respective HA Server process, HA Monitor process, and HA Spawner process, starting and stopping said watched processes in response to states of said watched process (Galgano , Jr. et al., *BOSS*, column 3 lines 62 – column 4 line 13 ).

4. Claims 3 – 6, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ezerzer et al. (US 6,697,858) in view of Galgano, Jr. et al. ( US 6,111,947), and further in view of Dickerman et al. ( US 6,188,761), and further in view of Holenstein et al. ( US 2005/0021567).

For claims 3, 11, and 17, Ezerzer et al. further discloses defining a run status for each of said plurality of processes (Ezerzer et al., column 19 lines 6 – 7), yet fails to teach the following: defining selected processes of said plurality of processes as cold-standby run status, wherein one copy of the selected process runs on one of the duplexed call-management systems

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while the remaining copy remains stopped or idle on the remaining call-management system; defining selected processes of said plurality of processes as warm run status, wherein one copy of the selected process runs on one of the duplexed call-management systems while the remaining copy remains running on the remaining call-management system, however, one of the copies is inactive; defining selected processes of said plurality of processes as load sharing run status, wherein both copies of the selected process run and actively handle requests, sharing the overall load.

However, Holenstein et al. discloses a method for the purpose of ensuring system availability wherein a system comprises a primary and backup system and the backup system is configured to be in a "cold", "warm", "hot" or load-sharing state to enable replication of the primary system in case of the failure of the primary system ([006-0008]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Ezerzer et al. with the teachings of Holenstein et al. to define the mirror processes, servers, and functions which form at least a duplexed call management system as disclosed above in Ezerzer et al. as "cold", "warm", "hot", or "load-sharing" for the purpose of ensuring system availability in case of the failure of the master processes as disclosed above in Ezerzer et al.

For claim 5, Ezerzer et al. and Holenstein et al. further discloses wherein each of said duplexed call-management system includes one or more load-sharing nodes, each node hosting selected processes (Ezerzer et al., column 19 lines 6 -7; Holenstein et al., [0008])



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For claim 6, the teachings of Ezerzer et al. and Galgano, Jr. et al. further discloses controlling each of said duplexed call-management systems with a respective HA Server process running on one node of each of said duplexed call-management systems (Ezerzer et al., column 2 lines 63 - 67); monitoring processes on each of said nodes under control of said HA Server process with a respective HA Monitor process running on the same node as said monitored processes, said HA Monitor process broadcasting a respective state of each of said monitored processes to all remaining HA Server processes (Ezerzer et al., column 25 lines 45 – 47)(Galgano, *BOSS*, column 3 lines 62 – column 4 line 2); starting and stopping selected process of said monitored processes with a respective HA Spawner process running on the same node as said monitored processes in response to requests from said HA Server process, said HA Monitor process and an HA Master process (Ezerzer et al., *Host Server*, column 22 lines 6 – 19; Galgano, Jr. et al., *BOSS*, column 3 lines 62 – column 4 line 2 ); and watching said HA Server process, said HA Monitor process, and said HA Spawner process with an HA Master process running on the same node as the respective HA Server process, HA Monitor process, and HA Spawner process, starting and stopping said watched processes in response to states of said watched process (Galgano, Jr. et al., *BOSS*, column 3 lines 62 – column 4 line 13 );

### ***Response to Arguments***

5. Applicant's arguments with respect to the rejection(s) of claim(s) 1, 9, and 15 have been considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of claims 1, 9, and 15.

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6. Applicant's arguments with respect to the rejection(s) of claim 4 have been considered and are not persuasive. Holenstein et al. discloses that the load-sharing process is an active/active process wherein both systems are actively running the processes and sharing the load ([0008]). It is not a standby process. The standby processes are hot, cold and warm as disclosed in paragraphs 6 and 7.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SONIA GAY whose telephone number is (571)270-1951. The examiner can normally be reached on Monday to Thursday from 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sonia Gay/

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/Rasha S AL-Aubaidi/  
Primary Examiner, Art Unit 2614

Examiner, Art Unit 2614  
November 18, 2009